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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 08/964,257
Filing Date: November 04, 1997
Appellant(s): TERASHIMA ET AL.

TERASHIMA et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 07, 2007 appealing from the Office action mailed November 01, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated byTajima (Japanese Patent No. JP403003030A).

Concerning claim 7, Tajima discloses an apparatus (Fig.1) comprising a base apparatus (3) which includes first sheet transporting path (3a) extending substantially vertically and perform a first processing for a sheet traveling downward along all length of the first sheet transporting path; and a scanner apparatus (2) which can be removable mounted on the base apparatus and includes a reading element (Fig.5); wherein a second sheet transporting path (5) extending substantially vertically is defined by a surface of the scanner apparatus on which the reading element is provided, and a surface of the base apparatus which faces to the scanner apparatus in case where the scanner apparatus is mounted on the base apparatus (Fig.2), and a second sheet travels downward along all length of the second transporting path; and wherein the scanner apparatus (Fig.5) includes a pick roller (20) provided at a location upstream of the second sheet transporting path and viewed in a sheet transporting direction and includes a feed roller (21) provided at locations downstream of the second sheet transporting path, the first and

second sheet transporting paths being provided along and adjacent and nearly parallel to each other at their straight guide parts of the upper portion, and the first and second sheet delivery ports are provided at a same side of the apparatus (Figs.1-2); and wherein the scanner apparatus is so implemented as to be capable of operating as a hand scanner is a case where the scanner apparatus is detached from the base apparatus (Abstract).

Concerning claims 8-9, Tajima further teaches the scanner apparatus has a protecting member to provided in a manner projecting at a side of the surface of the scanner apparatus, to protect the pick roller from collapsing with the weight of the scanner apparatus in a case where the scanner apparatus is used as a hand scanner and the protecting member is provided at a location outside of a reading area of the scanner apparatus (claims 8-9), (Figs.1, 5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tajima as applied to claim7 above, and further in view of Shimizu (US Patent No. 5,663,811).

Concerning claim 10, Tajima fails to teach a groove to receive the protecting member is a case where the scanner apparatus is mounted on the base apparatus is provided in the surface of the base apparatus facing toward the protecting member. However, it a matter or well known in the art at the time the invention was made to have a groove in Tajima to better hold the hand

scanner mounted on the base apparatus. Shimizu supports the well-known prior art by teaching a hand-held scanner mounted on a base apparatus having the groove to receive and hold the hand-held scanner (Fig.3). It would have been obvious to one skilled in the art at the time the invention was made as a matter of well known in the art supported by Shimizu to have a groove on the surface of the base apparatus facing toward the protecting member in order to hold the scanning part 2 since Tajima teaches that the scanner part 2 is attachable/detachable fitted on the recessed part 3 while does not limit any supporting mechanism for holding the scanning part 2.

5. Claims 19-25, 34-36, 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tajima in view of Shimizu (US Patent No. 5,663,811).

Concerning claims 19, 46, Tajima discloses the apparatus as discussed in claim 7 above.

Tajima fails to teach an engaging portion and a scanner mounting portion wherein either of them is a pivotal shaft for allowing the scanner apparatus to rotate frontward while the other is in the form of a holding member for holding the pivotal shaft. However, it a matter of old well known in the art at the time the invention was made to have a structure with a pivotal shaft in Tajima to better hold the hand scanner mounted on the base apparatus since a pivotal shaft for allowing any device to rotate frontward while a mounting portion is in the form of a holding member for holding the pivotal shaft has been known. In addition, it is a matter of design choice and old structure to have an engaging portion to engage any device on a mounting portion. Shimizu supports the well known prior art by teaching a hand-held scanner mounted on a base apparatus having an engaging portion to allow the scanner apparatus to rotate frontward while the other is in the form of a holding member for holding the pivotal shaft receive and hold the

hand-held scanner (Figs.1, 5). It would have been obvious to one skilled in the art at the time the invention was made as a matter of well known in the art and a matter of design choice, supported by Shimizu to use a pivotal shift for allowing a scanning apparatus to rotate frontward while the mounting portion is in the form of a holding member for holding the pivotal shaft since Tajima teaches that the scanner part 2 is attachable/detachable fitted on the recessed part 3 while does not limit any supporting mechanism for holding the scanning part 2.

Concerning claims 20, 25, Tajima further teaches that the scanner apparatus is so implemented as to be capable of operating as a hand scanner in a case where the scanner apparatus is detached form the base unit (Fig.1).

Concerning claims 21, 22, 23, 48-50, Tajima does not teach a lock member locking the scanner apparatus is a stated mounted on the base unit, a stopper preventing the scanner apparatus for swinging excessively frontward of the apparatus in case the scanner is attached to or detached from the base unit, and a deviation preventing the scanner apparatus from displacing upwardly in a case where the scanner is mounted on the base unit. However, it was a matter of old and well known in the art and a matter of design choice to have a lock member locking the scanner apparatus since a lock member and a stopper are well-known to lock any device on a mounting base unit and to stop a device from swinging excessively frontward. Shimizu supports the well known prior art by teaching a hand-held scanner mounted on a base apparatus having an engaging portion to allow the scanner apparatus to rotate frontward while the other is in the form of a holding member or a stopper for holding or stopping the scanner (Fig.3) and a hand scanner removal button 100b to lock the scanner, to prevent the scanner for swinging and to prevent the scanner from displacing upwardly (Fig.3; col. 3, lines 53-57). It would have been obvious to one

skilled in the art at the time the invention was made as a matter of well known in the art and a matter of design choice to use a lock member to lock the scanner apparatus is a stated mounted on the base unit and a stopper for preventing the scanner apparatus for swinging excessively frontward of the apparatus in case the scanner is attached to or detached from the base unit since Tajima teaches that the scanner part 2 is attachable/detachable fitted on the recessed part 3 while does not limit any supporting mechanism for holding the scanning part 2.

Concerning claim 24,Tajima in view of Shimizu discloses the apparatus discussed in claim 19 above. Tajima further teaches a sheet guide provided on the scanner apparatus and a sheet guide provided on the base unit which are faced each other, and offset member is provided for at least one of the said two sheets guides for stepwise limiting moving of a sheet toward the sheet withdrawing port (Figs.1, 5).

Tajima does not teach that the space between two sheet guides becomes gradually narrower toward a sheet withdrawal port. However, it a matter of design choice and "old and well known in the art" structure to have any two sheets guide path parallel or not. Shimizu supports the old and well known in the art of 2 sheets guide paths having a space gradually narrower toward a sheet withdrawal port (Fig.4). It would have been obvious to one skilled in the art at the time the invention was made as a matter of design choice to modify the two sheet guide paths having a space gradually narrower toward a sheet withdrawal port as a matter of design choice, supported by Shimizu since both of the designs have the same result for guiding the sheets toward withdrawal ports.

Concerning claim 34,Tajima in view of Shimizu discloses the apparatus discussed in claim 24 above. Tajima further teaches that the base apparatus includes a first sheet guide (3a)

provided at a location upstream of the second sheet transporting path (5) and the scanner apparatus includes a second sheet guide provided at a location upstream of the second sheet transporting path (Figs.1, 5).

Concerning claims 35-36, Tajima further teaches that the scanner apparatus includes a pick roller (20) provided at a location upstream of the second sheet transporting path and viewed in a sheet transporting direction and includes a feed roller (21) provided at locations downstream of the second sheet transporting path and the protecting member is provided at a location outside of a reading area of the scanner apparatus (Figs.5-6).

Concerning claim 47, Tajima further teaches a sheet transporting direction of the sheet transporting path is substantially vertical, and Shimizu further teaches the engaging portion and the scanner mounting portion hold the scanner such that the scanner can rotate about a lower portion (Figs.1, 5).

6. Claims 38-40, 42-45, 52-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu.

Concerning claim 38, Shimizu discloses a multiple function apparatus comprising a base unit; a first transporting guide (100c); a first apparatus (printing unit 4 in the body) provide at a deflecting guide part and performing processing for the first sheet; a second transporting guide (200c), a second apparatus (scanning unit 5) for performing processing of the second sheet wherein the second apparatus is a removable mounted on the base unit and includes a reading element and being implemented as a hand scanner in a case where the scanner apparatus is

detached from the base unit wherein a portion of the second transporting guide is movable so that the body including the first apparatus can be exposed.

Shimizu does not teach that the first apparatus can be exposed when the hand scanner is detached from the base unit. However, since the part of the body including the printing unit 4 is exposed, it would have been obvious to one skilled in the art at the time the invention was made to have the printing unit 4 exposed in the upper part or in the lower part of the body as a matter of design choice since the body of the first apparatus can be exposed either way.

Concerning claim 39-40, 42, 44, 45, Shimizu further teaches that the second apparatus is provided opposite of the first transporting guide (claim 39), the directions of transport of the first sheet and second sheet form an angle smaller than 90 degrees (claim 40); the second transporting guide is provided closer to the front side, the first apparatus is an image forming apparatus, the second apparatus is a scanner (claim 42); a portion of the second transporting guide (the scanner) is movable (claim 44); the first apparatus and second apparatus are provided to overlap each other (claim 45).

Concerning claim 43, Shimizu does not directly teach a cover, which is a portion of the second transporting guide to cover the image forming apparatus. However, From Fig.3-4, the mounting portion of the base has a vertical part as a portion of a transporting guide and as a part of a cover. It would have been obvious to one skilled in the art at the time the invention was made to consider the vertical straight part of the apparatus is a cover part of the image forming apparatus since it protect the parts inside the body of the apparatus.

Concerning claims 52, 59, Shimizu teaches an apparatus as discussed in claim 38 above.

Shimizu does not directly teach a cover which is a portion of the second transporting guide to cover the image forming apparatus. However, From Fig.3-4, the mounting portion of the base has a vertical part as a portion of a transporting guide and as a part of a cover. It would have been obvious to one skilled in the art at the time the invention was made to consider the vertical straight part of the apparatus is a cover part of the image forming apparatus since it protect the parts inside the body of the apparatus.

Concerning claims 53-54, Shimizu fails to teach a cover that can be opened and closed or the cover can be removed. However, it a matter of design choice to have such cover since a cover, which can be opened and closed or removed, is commonly used for cover any device. It would have been obvious to one skilled in the art at the time the invention was made as a matter of design choice to have a cover which can be opened and closed or the cover can be removed since Shimizu also teaches a cover 100c which can be open or closed or a cover (scanner) which can be removed.

Concerning claims 55-58, Shimizu further teaches that the base apparatus is an image forming apparatus (claim 55); a sheet guide of the image forming apparatus and a sheet guide of the scanner apparatus are provided adjacent to each other (claims 56-57); a sheet feeding portion of the scanner is provide frontward (claim 58).

Concerning claims 60-61, Shimizu further teaches a hand-held scanner, which includes at least one roller for sheet transportation, a center of rotation located at a downstream side.

7. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu as applied to claim38 above, and further in view of Tajima.

Concerning claim 41, Shimizu further teaches a first transporting mechanism transporting the first sheet from the straight guide part toward the deflecting guide part; a second transporting mechanism transporting the second sheet. Shimizu fails to teach that the direction of the second sheet is in substantially a same direction as the first sheet. However, it a matter of design choice to have the first and second sheet transports having the same direction. Tajima discloses a system having a detachable scanner mounted on a base unit having tow transporting mechanism wherein the direction of the first and second sheets are in substantially the same direction. It would have been obvious to one skilled in the art at the time the invention was made as a matte or design choice to have the first and second sheet direction at the same direction as a matter of design choice supported by Tajima since both ways can transport the sheets to the withdrawing ports.

(10) Response to Argument

Issue 1: Whether claims 7-9 are rejectable under 35 U.S.C. 102(b) as being anticipated by Tajima (JP 403003030A)

Applicant remarks that Tajima fails to teach or suggest a second sheet transporting path that is defined by a surface of a scanner apparatus and a surface of a base apparatus. As clearly shown in Figure 1 of Tajima et al., the printer device 3 has two molded transporting sheet paths that are defied within the printer itself. Figure 1 of Tajima clearly shows that the scanner part 2 or any surface thereof does not define the second sheet transporting path when the scanner part 2 is mounted to the printer device 3. Further, the attached enlarged copy of Figure 5 of Tajima et al shows that the recessed portion of the printer body A is located between the housing of the scanner part 2 and the paper X.

It is noted that the second sheet transporting path is claimed as "a second **sheet transporting path** extending substantially vertically is defined by a surface of said scanner apparatus on which said reading element is provided, and a surface of said base apparatus which faces to said scanner apparatus in a case where said scanner apparatus is mounted on said base apparatus, and **a second sheet travels downward along all length of the second transporting path**". Thus, the second sheet transporting path is for transporting or moving the sheet to travel downward. Applicant contents that in Tajima, the second sheet transporting path is the recessed portion of the printer body A (located between the housing of the scanner part 2 and the paper X) and one surface of the printer 3 (Fig.5). Thus, the two surfaces forming the second sheet transporting path in Tajima are defined within the printer body 3. However, the examiner does not agree with the applicant since the second sheet transporting path mentioned by the applicant

is not **a sheet transporting path since it cannot transport the sheet downward**. From Figs. 5 and 6, Tajima teaches that the second transportation mechanism (Z2) is constituted by the based panel 29 (first sentence of 4th paragraph in page 13) and the surface of the scanner 2 having roller 20 and 21 in direct contact with the sheet (last sentence of the 2nd paragraph in page 14). For instance, the English translation of Tajima teaches, "The original paper X, furthermore, is designed to become transported along the direction of the arrow based on the rotation of the second transportation mechanism (Z2) ..." (first paragraph in page 13), "As a result, the pair of follow rollers (20) & (21) being contacted with the vibration panel (28) become rotated clockwise, and the original paper X then becomes transported along the transportation direction according to this constitution." (last sentence of 2nd paragraph in page 14), and "... second transportation mechanism (Z2), is designed to be controlled by the PIA circuit (55) within the housing B of the scanner unit (2), as will be discussed later." (last sentence of 3rd paragraph in page 14). In other words, the clockwise rotation of the rollers 20 and 21 on the surface of the scanner 2 transports the original paper X downward and the PIA circuit (55) within the scanner 2 controls the second transportation mechanism Z2. Therefore, in order to have a second sheet transporting path the scanner 2 should be attached to the printer 3 so that its surface and the surface of the base 19 of the printer 3 can define a second sheet transporting path for transporting the original paper X downward. **Without the scanner 2 on the printer 3, there is no second sheet transporting path** since the scanner 2 controls the second transporting mechanism Z2 and not the printer 3. Besides, Tajima and the present invention both teach that the rollers of the scanner are in direct contact with the sheet being scanned and not the surface of the scanner is in direct contact with the sheet as remarks by the applicant. Thus, Tajima teaches the same

advantage mentioned by the applicant with the invention. Therefore, Tajima teaches a second sheet transporting path that is defined by a surface of a scanner apparatus and a surface of a base apparatus as claimed.

Issue 2: Whether claim 10 is rejectable under 35 U.S.C. 103(a) as being unpatentable over Tajima and further in view of Shimizu.

Applicant remarks that both Tajima et al and Shimizu provide no teaching for the combination of a groove which receives a protecting member for protecting a pick roller, as featured in the claimed combination. The references together do not suggest the combination of features claimed.

As stated in the rejection, a groove for receiving a protecting member for protecting a pick roller is a matter of well known in the prior art at the time the invention was made. Shimizu is combined with Tajima to support the commonly known groove for protecting a pick roller when the scanner apparatus is mounted on the base. Tajima discloses a mounting depression unit 3c for mounting the scanner unit 2 (Fig.1) but does not describe the unit in details. Shimizu discloses a printing and scanning apparatus with a detachable scanner with a groove on the base apparatus for protecting pick rollers 200b and 200c (Figs.3-4). Thus, the test for obviousness is not whether the features of a secondary reference (Shimizu) may be bodily incorporated into the structure of the primary reference (Tajima); nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that the references together do not suggest the combination of features claimed, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of a groove receiving a protecting member to hold a detachable scanner is a matter of well-known in the prior art while Tajima also discloses a mounting depression unit 3c for holding the scanner and protecting the pick rollers 20 and 21 (Fig. 1).

Issue 3: Whether claims 19-25, 34-36, 46-50 are rejectable under 35 U.S.C. 103(a) as being unpatentable over Tajima in view of Shimizu.

Applicant remarks that Tajima et al and Shimizu fail to provide any motivation for a pivotal shaft as featured in claim 19. The hand scanner removal button 100b of Shimizu is not connected to a shaft and does not rotate the hand scanner 200 forward by means of a pivotal shaft as featured in the claimed combination.

As stated in the rejection, it is a matter of well known in the art at the time the invention was made to have a structure with a pivotal shaft in Tajima to better hold the hand scanner mounted on the base apparatus. Since the structure is old, it is also a matter of design choice to have a pivotal shaft for allowing a scanner to rotate frontward in order to detachable it from the base unit. As previously stated, Tajima discloses a mounting depression unit 3c for mounting the

scanner unit 2 to form on the profile plane of the housing A of the printer device 1 without describing in details the mechanism to hold the scanner attached to the housing A of the printer device 1 and without limiting any mechanism to attach the scanner to the housing A of the printer. Thus, any mechanism can be used without changing the scope of the claims. Shimizu discloses a detachable scanner 200 which can be manually removed frontward from the facsimile machine with a holding mechanism as illustrated in Figs.2, 5. Although a pivotal shaft is not clearly shown and since the holding mechanism of the detachable is not the main invention, it is considered that the pivotal shaft exist in the apparatus in order for the scanner to be detached from the base unit. For instance the removal button 100b can be connected to a pivotal shaft or can be itself a pivotal shaft in order for the scanner to be removed and rotated frontward. In addition, cited and submitted references also support the well-known prior art of the structure with a pivotal shaft to better hold a detachable scanner such as Kojima et al (US Patent No. 5,412, 490), (Fig.4; Abstract); Tanoue et al (US Patent No. 5,884,117), (Figs.2-3; col. 9, lines 14-20); Taniguchi et al (US Patent No. 6,064,498), (Fig.3; col. 3, lines 22-30); Miller et al (US Patent No. 5,331,580), (Fig.11; col. 17, lines 25-33). In addition, the mechanism used in Tajima, Shimizu and the present invention for allowing the scanner to rotate frontward and detachable from the base unit have the same predictable results. Thus, the combination of a pivotal shaft in Tajima would have yielded nothing more than predictable results to one of ordinary skill in the art at the time the invention.

Issue 4: Whether claims 38-40, 42-45 and 52-61 are rejectable under 35 U.S.C. 103(a) as being unpatentable over Shimizu.

Applicant remarks that Shimizu fails to teach or suggest a sheet transporting path that is defined by a surface of a scanner apparatus and a surface of a base apparatus when the scanner apparatus is mounted to the base apparatus. As clearly shown in Fig.4 of Shimizu, a surface of scanner 5 and a surface of printer body 4 do not form a sheet transporting path as provided in the claimed combination. Further, Shimizu fails to teach or suggest a It is noted that the features upon which applicant relies (i.e., surface of printer body 4 does not form a sheet transporting path with the surface of scanner 5) are not recited in the rejected claim(s). Instead, it is claimed that the sheet transporting path is defined by a surface of a scanner and a surface of a base apparatus when the scanner apparatus is mounted to the base apparatus. Thus, from Figs.2 and 5, Shimizu discloses a sheet transporting path that is defined by a surface of a scanner apparatus 5 and a surface of a base of apparatus 100 when the scanner apparatus is mounted to the base of apparatus 100. The two arrows in Fig.2 show the direction of the sheet to be transported through the sheet transporting path while in Fig.5, the arrow A clearly shows the sheet transporting path. Shimizu clearly teaches the claimed invention of the sheet transporting path. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding the limitation of the first transporting guide and a second transporting guide wherein the first transporting guide has a straight guide part and a deflected guide part, Shimizu teaches in Fig.5 the first transporting guide starting at the cover 100c of the device body 100 where a sheet is transported downward (arrows 4 and B) wherein the first part starts with a straight guide and a second deflected guide part before reaching the roller 42. The teaching of the straight guide part and the deflected guide part also has the same advantage that the paper is

feed in an orderly manner without distortion. Thus, Shimizu teaching can be read on the claimed invention.

Issue 5: Whether claim 41 is rejectable under 35 U.S.C. 103(a) as being unpatentable over Shimizu, and further in view of Tajima.

Applicant remarks that Shimizu fails to teach or suggest a first transporting guide having a straight guide part and a deflected guide part; and further Shimizu provides no teaching of a first apparatus being exposed when the second transporting guide is moved along the deflecting guide portion of the first transporting guide.

It is noted that the first remark is addressed in Issue 4 above.

For the second remark, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a first apparatus being exposed when the second transporting guide is moved along the deflecting guide portion of the first transporting guide) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(11) Related Proceeding(s) Appendix

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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